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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,560	03/15/2004	William H. Brine III	SHI 64963	9795

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EXAMINER

CHAMBERS, MICHAEL S

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 04/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/800,560

Applicant(s)

BRINE ET AL.

Examiner

Mike Chambers

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3, 5-20 and 24-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-15, 17-20 and 25-29 is/are rejected.
- 7) ☒ Claim(s) 16 and 24 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5-13, 14-15, 18,19, and 26-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Otto (6241629). Otto discloses

a lacrosse stick handle; and a lacrosse ' head connected to the lacrosse stick handle; and an articulation mechanism disposed between the lacrosse stick handle and the lacrosse stick head (fig 1,4). In as much structure set forth by the applicant in the claims, the device is capable of use in the intended manner if so desired (See MPEP 2111-2112).

As to claim 2 : Otto discloses a head is connected to the handle by an articulation mechanism (fig 1).

As to claim 3 : Otto discloses an articulation mechanism that is located between an end of the handle and a base of the head (fig 1,4).

As to claim 5 : Otto discloses an articulated mechanism that is contained within the head and handle (fig 1,4).

As to claim 6 : Otto discloses a moveable head (fig 1,4).

As to claims 7-9 : Otto discloses a displacement angle (fig 1,4).

As to claim 10 : Otto discloses a first and second displacement angles (fig 1,4).

As to claim 11 : Otto discloses a first and second displacement angles that are the same (fig 1,4).

As to claim 12 : Otto discloses a first and second displacement angles that are different (fig 1,4).

As to claim 13 : Otto discloses a head that articulates in the same direction as a ball exiting the device (fig 1,4).

As to claim 26 : See claim 1 rejection.

As to claims 27-29 : See claim 7-9 rejection.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,2,5,7-8,13,25-26 and 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morrow (RE38216) in view of Brine (6752730). Morrow discloses the elements of claim 1, however it fails to clearly disclose the use of a handle. Brine discloses the use of a handle (fig 2,7). It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the handle of Brine with the apparatus of Morrow in order to utilize the lacrosse head in using the device as it is intended to be used. The device of Morrow has a screw adjustment means for securing the handle to the head. The entire device would tend to articulate

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depending on the tightness of the screw and the clearance between the shaft and the head socket.

As to claim 2 : Morrow discloses a head is connected to the handle by an articulation mechanism (fig 2).

As to claim 5 : Morrow discloses an articulated mechanism that is contained within the head and handle (fig 2,7).

As to claims 7 and 8 : Depending on the looseness of the fit, the head of Morrow would articulate at least one or two degrees (fig 2,7).

As to claim 13 : Morrow discloses an articulated mechanism that articulates the head in a direction in which the lacrosse ball would exit the head (fig 2,7).

As to claim 25 : Morrow discloses a locking mechanism (fig 2,7).

As to claim 26 : See claim 1 rejection.

As to claims 28 and 29: See claim 1 rejection.

Also,

Claims 1,2,5-15,17,19-20, and 25-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brine (3910578) in view of Hubbard (303517). Brine discloses the elements of claim 1, however it fails to clearly disclose the use of an articulation mechanism. Hubbard discloses the use of an articulation mechanism (fig 2). It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the mechanism of Hubbard with the apparatus of Brine in order to customize the lacrosse head to the personal preferences of the user and increase the satisfaction of the user.

As to claim 2 : Hubbard discloses a head connected to the handle by an articulation mechanism (fig 2).

As to claim 3 : Hubbard discloses an articulated head is connected to the handle by an articulation mechanism (fig 2).

As to claim 5 : Hubbard discloses an articulated mechanism that is contained within the head and handle (fig 2).

As to claim 6 : Hubbard discloses a moveable head (fig 2).

As to claims 7-9 : Hubbard discloses a displacement angle (fig 2). The movement of the ball and socket joint would include all the limitations claimed.

As to claim 10 : Hubbard discloses a first and second displacement angles (fig 2). The movement of the ball and socket joint would include all the limitations claimed.

As to claim 11 : Hubbard discloses a first and second displacement angles that are the same (fig 2). The movement of the ball and socket joint would include all the limitations claimed.

As to claim 12 : Hubbard discloses a first and second displacement angles that are different (fig 1,4). The movement of the ball and socket joint would include all the limitations claimed.

As to claim 13 : Hubbard discloses a head that articulates in the same direction as a ball exiting the device (fig 2).

As to claim 14 : Hubbard discloses a first and second element (fig 2).

As to claim 15 : Hubbard discloses a fastener (fig 2).

As to claim 17 : Hubbard discloses a resistive material (fig 2).

As to claims 19 and 20 : Hubbard discloses a ball and socket assembly (fig 2).

As to claim 25 : Hubbard discloses a locking mechanism (fig 2).

As to claim 26 : See claim 1 rejection.

As to claims 27-29 : See claim 7-9 rejection.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brine (3910578) in view of Hubbard (303517) as applied above and further in view of Official Notice . Official Notice is taken that the use of various resistive materials is well known in the art. The specification provides no unexpected or surprising results in using any of the materials claimed. It would have been obvious to one of ordinary skill in the art to have selected an appropriate resistive material based on cost and design considerations.

#### ***Allowable Subject Matter***

Claims 16 and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Chambers whose telephone number is 571-272-4407. The examiner can normally be reached on Mon-Fri 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Kim can be reached on 571-272- 4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

0303517\*6241629\*3910578\*RE38216\*6752730

Michael Chambers  
Examiner  
Art Unit 3711

April 12, 2006



**EUGENE KIM**  
**SUPERVISORY PATENT EXAMINER**